

presented to the Administrator within the prescribed time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator otherwise provides, the filing of a petition under this section does not stay the effectiveness of the rule.

#### **§ 553.37 Proceedings on petitions for reconsideration.**

The Administrator may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. In the event he determines to reconsider any rule, he may issue a final decision on reconsideration without further proceedings, or he may provide such opportunity to submit comment or information and data as he deems appropriate. Whenever the Administrator determines that a petition should be granted or denied, he prepares a notice of the grant or denial of a petition for reconsideration, for issuance to the petitioner, and issues it to the petitioner. The Administrator may consolidate petitions relating to the same rule.

#### **§ 553.39 Effect of petition for reconsideration on time for seeking judicial review.**

The filing of a timely petition for reconsideration of any rule issued under this part postpones the expiration of the 60-day period in which to seek judicial review of that rule, as to every person adversely affected by the rule. Such a person may file a petition for judicial review at any time from the issuance of the rule in question until 60 days after publication in the Federal Register of the Administrator's disposition of any timely petitions for reconsideration.

#### **Appendix to Part 553—Statement of Policy: Action on Petitions for Reconsideration**

It is the policy of the National Highway Traffic Safety Administration to issue notice of the action taken on a petition for reconsideration within 90 days after the closing date for receipt of such petitions, unless it is found impracticable to take action within that time. In cases where it is so found and the delay beyond that period is expected to be substantial, notice of that fact, and the date by which it is expected that action will be taken, will be published in the Federal Register.

Issued on: November 28, 1995.

Ricardo Martinez,  
*Administrator.*

[FR Doc. 95-29394 Filed 12-4-95; 8:45 am]

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Parts 649, 650, and 651**

[Docket No. 950824215-5275-03; I.D. 050295B]

RIN 0648-AH37

#### **American Lobster Fishery; Atlantic Sea Scallop Fishery; Northeast Multispecies Fishery; Vessel Ownership Requirements**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement measures contained in Framework Adjustment 1 to the American Lobster Fishery Management Plan (FMP), Framework Adjustment 3 to the Atlantic Sea Scallop FMP, and Framework Adjustment 7 to the Northeast Multispecies FMP. This rule implements framework adjustments that revise a provision in each of the FMPs that requires all permit applicants to own a fishing vessel at the time they apply for or renew a limited access permit. The intent of this rule is to allow certain applicants who have owned vessels that meet the various limited access permit qualification criteria, but who do not currently own a vessel, to preserve their eligibility to apply for a Federal limited access permit for a replacement vessel in subsequent years by obtaining a Confirmation of Permit History.

**EFFECTIVE DATE:** December 4, 1995.

**ADDRESSES:** Copies of the Framework Adjustments, Amendment 5 to the American Lobster FMP, Amendment 4 to the Atlantic Sea Scallop FMP, and Amendment 5 to the Northeast Multispecies FMP, including regulatory impact reviews, initial regulatory flexibility analyses, and final supplemental environmental impact statements are available upon request from Douglas Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1097; telephone 617-231-0422.

**FOR FURTHER INFORMATION CONTACT:** E. Martin Jaffe, Fishery Policy Analyst, 508-281-9272.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

In 1994, NMFS implemented major amendments, developed by the New

England Fishery Management Council (Council), to the FMPs for the Atlantic sea scallop, northeast multispecies and the American lobster fisheries. These amendments, which were intended to address overfishing in these fisheries, implemented measures that limited access to these fisheries based upon historical participation. The Council did not, however, intend to force vessel owners to remain active in currently overfished fisheries in order to retain fishing rights for the future. To address this problem, the Council requested NMFS to implement this action, which will allow an applicant who has owned a vessel that meets the various limited access permit qualification criteria, but who does not own a vessel at the time of application, to preserve his/her right to qualify for a Federal limited access permit for a replacement vessel in subsequent years in the Atlantic sea scallop and northeast multispecies fisheries, and in the American lobster fishery. Qualified applicants will be allowed to apply for a Confirmation of Permit History and will need to apply for such annually to preserve the permit and fishing history of the qualifying vessel. See the proposed rule, which was published in the Federal Register on September 1, 1995 (60 FR 45690), for further background and rationale for this action.

##### **Comments and Responses**

The Council had discussed and heard public comment on this issue at the September 21-22, 1994, Council meeting, at which time the Council initiated this framework action. The public was notified of this Council meeting, and of the final Council meeting held on October 28-29, 1994, at which time this action was further discussed. No public comments were received. The proposed rule, however, which was published in the Federal Register on September 1, 1995 (60 FR 45690), provided the public with 15 additional days to comment. No additional comments were received by the September 15, 1995, closing date.

##### **Classification**

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed that it would not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

Under 5 U.S.C. 553(d)(1), because this rule relieves a restriction on the industry, it is not subject to a 30-day delay in effective date.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection-of-information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule contains a collection-of-information requirement subject to the PRA that has been approved by OMB under OMB Control Number 0648-0202. The public reporting burden for completing an application for a Confirmation of Permit History is estimated at 0.5 hours per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

#### List of Subjects

##### 50 CFR Part 649

Fisheries.

##### 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

##### 50 CFR Part 651

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 28, 1995.

Gary Matlock,  
Program Management Officer, National  
Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 649, 650, and 651 are amended as follows:

#### **PART 649—AMERICAN LOBSTER FISHERY**

1. The authority citation for part 649 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 649.4, paragraph (b)(6) is added to read as follows:

##### **§ 649.4 Vessel permits.**

\* \* \* \* \*

(b) \* \* \*

##### **(6) Confirmation of Permit History.**

Notwithstanding any other provisions of this part, a person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person, may apply for and receive a Confirmation of Permit History

if the fishing and permit history of such vessel has been retained lawfully by the applicant. To be eligible to obtain a Confirmation of Permit History, the applicant must show that the qualifying vessel meets the eligibility requirements, as applicable, in this part. Issuance of a valid and current Confirmation of Permit History preserves the eligibility of the applicant to apply for or renew a limited access permit for a replacement vessel based on the qualifying vessel's fishing and permit history at a subsequent time, subject to the replacement provisions specified at § 649.4. A Confirmation of Permit History must be applied for and received on an annual basis in order for the applicant to preserve the fishing rights and limited access eligibility of the qualifying vessel. If fishing privileges have been assigned or allocated previously under this part based on the qualifying vessel's fishing and permit history, the Confirmation of Permit History also preserves such fishing privileges. Any decision regarding the issuance of a Confirmation of Permit History for a qualifying vessel that has applied for or been issued previously a limited access permit under this part is a final agency action subject to judicial review under 5 U.S.C. 704. Applications for a Confirmation of Permit History shall be accepted by the Regional Director on or before December 31, 1995. For subsequent years, applications must be received by the end of the calendar year in which the Confirmation of Permit History expires. Information requirements for the Confirmation of Permit History application shall be the same as those for a limited access permit with any request for information about the vessel being applicable to the qualifying vessel that has been sunk, destroyed, or transferred. Vessel permit applicants who hold a Confirmation of Permit History and who wish to obtain a vessel permit for a replacement vessel based upon the previous vessel history may do so pursuant to paragraph (b) of this section.

\* \* \* \* \*

#### **PART 650—ATLANTIC SEA SCALLOP FISHERY**

3. The authority citation for part 650 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. In § 650.4, the introductory text is revised and paragraph (a)(10) is added to read as follows:

##### **§ 650.4 Vessel permits.**

Any vessel of the United States that fishes for, possesses, or lands per trip

Atlantic sea scallops in quantities greater than 40 lb (18.14 kg) shucked scallops or 5 bushels (176.2 l) in-shell, except vessels that fish exclusively in state waters for sea scallops, must have been issued and carry on board a valid limited access scallop permit or a valid general scallop permit, issued under this section.

(a) \* \* \*

##### **(10) Confirmation of Permit History.**

Notwithstanding any other provisions of this part, a person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person, may apply for and receive a Confirmation of Permit History if the fishing and permit history of such vessel has been retained lawfully by the applicant. To be eligible to obtain a Confirmation of Permit History, the applicant must show that the qualifying vessel meets the eligibility requirements, as applicable, in this part. Issuance of a valid and current Confirmation of Permit History preserves the eligibility of the applicant to apply for or renew a limited access permit for a replacement vessel based on the qualifying vessel's fishing and permit history at a subsequent time, subject to the replacement provisions specified at § 650.4. A Confirmation of Permit History must be applied for and received on an annual basis in order for the applicant to preserve the fishing rights and limited access eligibility of the qualifying vessel. If fishing privileges have been assigned or allocated previously under this part based on the qualifying vessel's fishing and permit history, the Confirmation of Permit History also preserves such fishing privileges. Any decision regarding the issuance of a Confirmation of Permit History for a qualifying vessel that has applied for or been issued previously a limited access permit under this part is a final agency action subject to judicial review under 5 U.S.C. 704. Applications for a Confirmation of Permit History shall be accepted by the Regional Director on or before December 31, 1995. For subsequent years, such applications must be received by the end of the calendar year in which the Confirmation of Permit History expires. Information requirements for the Confirmation of Permit History application shall be the same as those for a limited access permit with any request for information about the vessel being applicable to the qualifying vessel that has been sunk, destroyed or transferred. Vessel permit applicants who hold a Confirmation of Permit History and who wish to obtain a vessel permit for a replacement vessel based

upon the previous history may do so pursuant to paragraph (a) of this section.

\* \* \* \* \*

## **PART 651—NORTHEAST MULTISPECIES FISHERY**

5. The authority citation for part 651 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

6. In § 651.4, paragraph (a) introductory text is revised and paragraph (a)(10) is added to read as follows:

### **§ 651.4 Vessel permits.**

\* \* \* \* \*

(a) *Limited access multispecies permits.* Beginning on May 1, 1994, any vessel of the United States that possesses or lands more than the possession limit of regulated species specified under § 651.27(a), except vessels fishing with fewer than 4,500 hooks that have been issued a hook-gear-only permit as specified in paragraph (b) of this section, vessels fishing for regulated species exclusively in state waters, and recreational fishing vessels, must have been issued and carry on board a valid Federal limited access multispecies permit, or an authorizing letter issued under paragraph (a)(8)(v) of this section. To qualify for a limited access multispecies permit, a vessel must meet the following criteria, as applicable:

\* \* \* \* \*

(10) *Confirmation of Permit History.* Notwithstanding any other provisions of this part, a person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person, may apply for and receive a Confirmation of Permit History if the fishing and permit history of such vessel has been retained lawfully by the applicant. To be eligible to obtain a Confirmation of Permit History, the applicant must show that the qualifying vessel meets the eligibility requirements, as applicable, in this part. Issuance of a valid and current Confirmation of Permit History preserves the eligibility of the applicant to apply for or renew a limited access permit for a replacement vessel based on the qualifying vessel's fishing and permit history at a subsequent time, subject to the replacement provisions specified at § 651.4. A Confirmation of Permit History must be applied for and received on an annual basis in order for

the applicant to preserve the fishing rights and limited access eligibility of the qualifying vessel. If fishing privileges have been assigned or allocated previously under this part based on the qualifying vessel's fishing and permit history, the Confirmation of Permit History also preserves such fishing privileges. Any decision regarding the issuance of a Confirmation of Permit History for a qualifying vessel that has applied for or been issued previously a limited access permit under this part is a final agency action subject to judicial review under 5 U.S.C. 704. Applications for a Confirmation of Permit History shall be accepted by the Regional Director on or before December 31, 1995. For subsequent years, such applications must be received by the end of the calendar year before the year for which the Confirmation of Permit History expires. Information requirements for the Confirmation of Permit History application shall be the same as those for a limited access permit with any request for information about the vessel being applicable to the qualifying vessel that has been sunk, destroyed or transferred. Vessel permit applicants who hold a Confirmation of Permit History and who wish to obtain a vessel permit for a replacement vessel based upon the previous vessel history may do so pursuant to paragraph (a) of this section.

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[FR Doc. 95-29518 Filed 12-4-95; 8:45 am]

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## **50 CFR Part 652**

[Docket No. 900124-0127; I.D. 110795D]

### **Atlantic Surf Clam and Ocean Quahog Fishery; Suspension of Minimum Size Limit for Surf Clams in 1996**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Suspension of surf clam minimum size limit.

**SUMMARY:** NMFS informs the public that the minimum size limit of 4.75 inches (12.065 cm) for Atlantic surf clams is suspended for the 1996 fishing year. The intended effect is to reduce a regulatory burden while still safeguarding the resource by assuring that the vast majority of surf clams are

larger than maximum-yield-per-recruit size.

**EFFECTIVE DATE:** January 1, 1996, through December 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Myles Raizin, Resource Policy Analyst, 508-281-9104.

### **SUPPLEMENTARY INFORMATION:**

A final rule implementing Amendment 8 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fishery was published on June 14, 1990 (55 FR 24184). Section 652.22(a)(1) allows the Regional Director to suspend, annually, by publication of a document in the Federal Register, the minimum size limit for Atlantic surf clams. This action may be taken unless discard, catch, and survey data indicate that as much as 30 percent of the Atlantic surf clam resource is smaller than 4.75 inches (12.065 cm), and the overall reduced size is not attributable to beds where growth of the individual clams has been reduced because of density-dependent factors.

At its August 1995 meeting, the Mid-Atlantic Fishery Management Council (Council) accepted the recommendations of its Statistical and Scientific Committee and Surf Clam/Ocean Quahog Committee and voted to recommend that the Director, Northeast Region, NMFS (Regional Director), suspend the minimum size limit for surf clams in 1996. NMFS port agents conducted a random sample of surf clams landed in 1995. Results indicate that only 10.67 percent of the sample was composed of clams that were less than 4.75 inches (12.065 cm). Based on the sampling results, the Regional Director adopts the Council's recommendation and publishes this document to suspend the minimum size limit for Atlantic surf clams for the period January 1, 1996, through December 31, 1996.

### **Classification**

This action is authorized by 50 CFR part 652 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 16, 1995.

Richard W. Surdi,

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

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